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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-041

Truck and Bus Tires from the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Jennifer Shore or Mark Kennedy, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-2778, or (202) 482-1293, respectively.

SUPPLEMENTAL INFORMATION

The Petition

On January 29, 2016, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of certain truck and bus tires from the People's Republic of China (the PRC), filed in proper form by the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (USW) (USW or the petitioner).¹ The CVD petition was accompanied by an antidumping duty (AD) petition concerning imports of truck and bus tires from the PRC. The petitioner is a recognized union, which represents the domestic industry engaged in the manufacture of truck and bus tires in the United States. On February 3 and February 5, 2016, the

¹ See "Petition for the Imposition of Countervailing Duties on Imports of Truck and Bus Tires from the People's Republic of China" dated January 29, 2016 (the Petition).

Department requested additional information and clarification of certain areas of the Petition² and on February 5 and February 9, 2016, the petitioner filed supplements to the Petition.³

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that producers/exporters of truck and bus tires in the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner in support of its allegations.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(D) of the Act, and has demonstrated sufficient industry support with respect to the initiation of the CVD investigation that it is requesting.⁴

Period of Investigation

The period of investigation (POI) is calendar year 2015, in accordance with 19 CFR 351.204(b)(2).

² See Letters to the petitioner, “Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Truck and Bus Tires from the People’s Republic of China: Supplemental Questions” dated February 3, 2016 (General Issues Supplemental Questions) and “Petition for the Imposition of Countervailing Duties on Imports of Certain Truck and Bus Tires from the People’s Republic of China: Supplemental Questions” dated February 5, 2016 (CVD Supplemental Questions).

³ See “Petitioner’s Response to the Department’s February 3, 2016 Supplemental Questions Regarding General Issues” dated February 5, 2016 (General Issues Supplement); *see also* “Petitioner’s Response to the Department’s February 5 Supplemental Questions Regarding the Countervailing Duty Petition,” dated February 9, 2016.

⁴ See “Determination of Industry Support for the Petition” section, below.

Scope of the Investigation

The product covered by this investigation is truck and bus tires from the PRC. For a full description of the scope of the investigation, *see* the “Scope of the Investigation” at the Appendix of this notice.

Comments on the Scope of the Investigation

During our review of the petition, we issued questions to, and received responses from, the petitioner pertaining to the proposed scope in order to ensure that the language of the scope is an accurate reflection of the products for which the domestic industry is seeking relief.⁵ As discussed in the Preamble to our regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁶ The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information,⁷ all such factual information should be limited to public information. All such comments must be filed no later than 5:00 p.m. Eastern Time (ET) on Wednesday, March 9, 2016, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed no later than 5:00 p.m. ET on Monday, March 21, 2016, because 10 calendar days after the initial comments falls on Saturday, March 19, 2016.⁸ The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation

⁵ *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement at 2 and Exhibit I-SQ-1, and the memorandum to the File entitled “Phone Call with Counsel to the Petitioner” dated February 12, 2016.

⁶ *See Antidumping Duties; Countervailing Duties (Final Rule)*; 62 FR 27296, 27323 (May 19, 1997).

⁷ *See* 19 CFR 351.102(b)(21).

⁸ *See* 19 CFR 351.303(b)(1) (“For both electronically filed and manually filed documents, if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.”)

may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must be filed on the records of the CVD investigation, as well as the concurrent AD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically filed document must be received successfully in its entirety no later than 5:00 p.m. ET on the date specified by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadline.⁹

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the Government of the People's Republic of China (GOC) of the receipt of the Petition. Also, in accordance with section 702(b)(4)(A)(ii) of the Act, the Department provided representatives of the GOC the opportunity for consultations with respect to the CVD petition. The GOC provided a document titled "Consultations Points of the GOC," in lieu of holding consultations.¹⁰

⁹ See 19 CFR 351.303(b); see also *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹⁰ See Memorandum to the File, "Petition for the Imposition of Countervailing Duties on Certain Truck and Bus Tires from The People's Republic of China: Consultations Comments from the Government of China," (February 16, 2016).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹¹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may

¹¹ See section 771(10) of the Act.

result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹²

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that truck and bus tires constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹³

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. To establish industry support, the petitioner estimated the 2015 production for each U.S. producer of truck and bus tires, by plant. The petitioner based its estimates of 2015 truck and bus tire production by plant on daily plant-specific production capacity data published in *Modern Tire Dealer*. The petitioner multiplied the daily production capacity data by 360 (to estimate annual capacity). The petitioner estimated 2015 truck and bus tire production in the United States using

¹² See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹³ For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Truck and Bus Tires from the People’s Republic of China (CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Truck and Bus Tires from the People’s Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

data on U.S. shipments, imports, and exports of truck and bus tires in 2015. To calculate a capacity utilization rate for the U.S. truck and bus tire industry in 2015, the petitioner compared estimated U.S. production of truck and bus tires in 2015 to the 2015 U.S. capacity to produce truck and bus tires. To calculate total 2015 production of the domestic like product by the petitioning plants, the petitioner applied the estimated capacity utilization rate to the total annualized capacity of those plants represented by the USW. In order to provide a conservative calculation of total 2015 production of the domestic like product by the U.S. truck and bus tire industry, the petitioner assumed that all non-petitioning truck and bus tire plants (*i.e.*, those not represented by the USW) operated at full capacity in 2015 and added the full production capacity of the non-petitioning plants to the estimated 2015 production of the plants represented by the USW. To calculate industry support, the petitioner divided the estimated 2015 production of the domestic like product for those plants represented by the USW by the estimated production of the domestic like product in 2015 for the entire U.S. truck and bus tires industry based on the conservative utilization assumption.¹⁴ We relied on data the petitioner provided for purposes of measuring industry support.¹⁵

Our review of the data provided in the Petition, General Issues Supplement, and other information readily available to the Department indicates that the petitioner has established industry support.¹⁶ First, the Petition established support from workers accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁷ Second, the workers have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of

¹⁴ See Volume I of the Petition, at I-6 – I-8 and Exhibits I-1 and I-11; *see also* General Issues Supplement, at 2-9 and Exhibits I-SQ-2 – I-SQ-18.

¹⁵ *Id.* For further discussion, *see* CVD Initiation Checklist, at Attachment II.

¹⁶ *See* CVD Initiation Checklist, at Attachment II.

¹⁷ *See* section 702(c)(4)(D) of the Act; *see also* CVD Initiation Checklist, at Attachment II.

the Act because the workers who support the Petition account for at least 25 percent of the total production of the domestic like product.¹⁸ Finally, the workers have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the workers who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁹ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(D) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting the Department initiate.²⁰

Injury Test

Because the PRC is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that

¹⁸ See CVD Initiation Checklist, at Attachment II.

¹⁹ *Id.*

²⁰ *Id.*

subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; decline in shipments; shift in the domestic industry's sales from the U.S. market to lower priced export markets; potential declines in capacity utilization, employment, and profitability; lost sales and revenues; and adverse impact on union contract negotiations.²² We assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.²³

Initiation of Countervailing Duty Investigation

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that: (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of truck and bus tires in the PRC benefit from countervailable subsidies bestowed by the GOC. The Department examined the Petition on truck and bus tires from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of truck and bus tires in

²¹ See Volume I of the Petition, at I-15 and Exhibit I-17.

²² *Id.*, at I-12, I-15 through I-32 and Exhibits I-2, I-10, I-17 through I-30.

²³ See CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Truck and Bus Tires from the People's Republic of China.

the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* the CVD Initiation Checklist which accompanies this notice.

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015, which made numerous amendments to the AD and CVD law.²⁴ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.²⁵ The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this CVD investigation.²⁶

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation of 38 of the 39 alleged programs. For a full discussion of the basis of our decision to initiate or not initiate on each program, *see* the CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Respondent Selection

Following standard practice in CVD investigations, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of truck and bus tires during the period of investigation under the appropriate Harmonized Tariff

²⁴ *See* Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

²⁵ *See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015).

²⁶ *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

Schedule of the U.S. numbers listed in the scope of Appendix I, below. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of publication of this Federal Register notice.

Interested parties wishing to comment regarding the CBP data and/or respondent selection must do so within seven calendar days after the placement of the CBP data on the record of this investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. ET by the date noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, and 19 CFR 351.202(f), a copy of the petition, which is publicly available in its entirety, has been provided to the Government of the PRC via ACCESS. To the extent practicable, we will attempt to provide a copy of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of truck and bus tires from the PRC are materially injuring, or threatening material injury to, a U.S. industry.²⁷ A negative ITC

²⁷ See section 703(a) of the Act.

determination will result in the investigation being terminated.²⁸ Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)-(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted²⁹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.³⁰ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extension of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET

²⁸ *Id.*

²⁹ *See* 19 CFR 351.301(b).

³⁰ *See* 19 CFR 351.301(b)(2).

on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits.³¹

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³² Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.³³ The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and*

Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures, 73 FR

³¹ See 19 FR 351.302(c). See also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

³² See section 782(b) of the Act.

³³ See 19 CFR 351.303(g). See also *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also the frequently asked questions regarding the *Final Rule*, available at the following: http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: February 18, 2016.

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix

Scope of the Investigation

The scope of the investigation covers truck and bus tires. Truck and bus tires are new pneumatic tires, of rubber, with a truck or bus size designation. Truck and bus tires covered by this investigation may be tube-type, tubeless, radial, or non-radial.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have one of the following suffixes in their tire size designation, which also appear on the sidewall of the tire:

TR – Identifies tires for service on trucks or buses to differentiate them from similarly sized passenger car and light truck tires;

MH – Identifies tires for mobile homes; and

HC – Identifies a 17.5 inch rim diameter code for use on low platform trailers.

All tires with a “TR,” “MH,” or “HC” suffix in their size designations are covered by this investigation regardless of their intended use.

In addition, all tires that lack one of the above suffix markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the “Truck-Bus” section of the *Tire and Rim Association Year Book*, as updated annually, unless the tire falls within one of the specific exclusions set out below.

Truck and bus tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes truck and bus tires produced in the subject country whether mounted on wheels or rims in the subject country or in a third country. Truck and bus tires are covered whether or not they are accompanied by other parts, *e.g.*, a wheel, rim, axle parts, bolts, nuts, etc. Truck and bus tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope of this investigation are the following types of tires: (1) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; and (2) non-pneumatic tires, such as solid rubber tires.

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1015 and 4011.20.5020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.99.4520, 4011.99.4590, 4011.99.8520, 4011.99.8590, 8708.70.4530, 8708.70.6030, and 8708.70.6060. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

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